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SENATE BILL 1412

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 33, Chapter 2, Part 4, relative to residential facilities for persons with developmental disabilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 33-2-417, is amended by adding the following new subsections thereto:

(c)(1) Criminal background checks shall be conducted for all new employees of any residential facility that houses persons with developmental disabilities. The procedures, requirements, and any other statutory provisions involving the requirements for criminal history disclosure forms, the methodology for obtaining and reporting the fingerprint-based criminal history of a person, the exclusions of persons with a criminal history, the appeals processes, the department's authority to allow by rule of the department for exemptions from a verified criminal background, permissive background check procedures and any other consistent procedures, shall be the same for persons subject to the provisions of this section as those provided in § 71-3-507 for persons having access to children in child care agencies licensed by the department of human services pursuant to title 71, chapter 3, part 5; provided, the residential home that

houses persons with developmental disabilities, and not the department, shall be responsible for all of the costs of the fingerprint criminal background checks conducted by the Tennessee bureau of investigation and the Federal bureau of investigation for its employees subject to this section.

(2) The residential home that houses persons with developmental disabilities may require that the costs of the background check be a part of the application process by a prospective employee or pay the costs and recover the costs of the fingerprint criminal background checks from the prospective employee following employment. The department shall pay all costs required for its employees subject to the required criminal background check.

(3) The Tennessee bureau of investigation shall make any reports of positive matches pursuant to this section in the same manner as provided for any of the processes authorized by § 71-3-507.

(4) Conviction of an offense, or a lesser included offense, involving the physical, sexual or emotional abuse, neglect, financial exploitation or misuse of funds, or theft from any person, or which constitutes conviction of an offense involving violence against any person, or conviction of an offense involving the manufacture, sale, possession or distribution of any drug, or a no contest plea to such offenses, and any pending warrants, indictments or presentments for such offenses, or the identification of any person on the department of health's vulnerable persons registry pursuant to title 68, chapter 11, part 10, shall disqualify such person from employment with, or from having any access whatsoever, to persons with developmental disabilities in a residential facility as defined by this part, or with the department.

(d) Residential facilities that house persons with developmental disabilities that are required by law to be licensed shall have no less than three (3) employees on the

premises at all times when persons with developmental disabilities are present on such premises.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.